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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/776,689   | 02/11/2004  | Scott Dresden        | BRAN.P005.A         | 3830             |
| 43355  | 7590        | 04/28/2008           | EXAMINER            |                  |
| Dort Patent, P.C.<br>Box 26219 Crystal City Station<br>Arlington, VA 22215 |             |                      | CHANKONG, DOHM      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2152                |                  |
|  |             |                      | MAIL DATE           | DELIVERY MODE    |
|  |             |                      | 04/28/2008          | PAPER            |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                       |  |
|------------------------------|--------------------------------------|---------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/776,689 | <b>Applicant(s)</b><br>DRESDEN, SCOTT |  |
|                              | <b>Examiner</b><br>DOHM CHANKONG     | <b>Art Unit</b><br>2152               |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

- 1> Claims 1-7 are presented for examination.
- 2> This is a non-final rejection.

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 3> Claims 1-4, 6, and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- a. Claims 1, 2, 4, 6, and 7 are rejected for lacking proper antecedent basis:
  - i. claim 1: "said users' choices" and "said user in a browser simulator";
  - ii. claim 2: "the time";
  - iii. claim 4: "said user" - unclear to which user this term is referring;
    - (1) "said user" will be interpreted as referring to the content user;
  - iv. claim 6: "said timing" and "said sub actions";
    - (2) "sub actions" will be interpreted as referring to the recalled stored actions in parent claim 5;
  - v. claim 7: "the behavior", "the recording", "the browser behavior", and "said at least one recording" - only one recording in the claim;

b. Claim 3 is rejected for being unclear. Claim 3 recites "said replaying step including replaying a plurality of users." It is not clear what is being replayed. For the purposes of this action, it is assumed that the claim intends to refer to replaying a plurality of users' choices.

c. Claim 6 is rejected for being unclear. Claim 6 recites "said indexing step" includes "said timing of said sub actions." The only "indexing step" in claim 5 refers to "indexing at least one site visitor." In addition to lacking proper antecedent basis, it is unclear how the indexing step recited in claim 5 relates in any way to the timing of actions.

#### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4> Claims 5 and 6 are rejected under 35 U.S.C. §102(e) as being anticipated by Duckett et al, U.S. Patent Publication No. 2003|0053420 ["Duckett"].

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5> As to claim 5, Duckett discloses a method for tracking and presenting information regarding the behavior of a plurality of users on a series of web pages, include the acts of:

indexing at least one site visitor [0068 – monitoring user identification such as log-on name, IP address];

detecting an activation event caused by said at least one visitor [0230-0236 where : the tracking system waits for sequence of events initiated by the user];

recording at least one action of said at least one visitor, said recording being stored in accessible electronic storage [0118-0134 : recording different visitor actions such as mouse position, link selection, field selections];

selecting an index criteria, said criteria based on criteria action from said at least one recorded action [0183-0186 – selecting a filter, where Duckett's filter reads on an index criteria because the filter indexes the saved data into a usable format based on a specific event];

recalling all stored actions from all indexed recorded data matching said index criteria [0182-0186 – the filter rules used to reduce the volume and present the data stored in the data log in a more usable fashion by filtering the data log to only display certain events];

statistically compiling said recalled stored actions [0186];

presenting said statistically compiled actions into at least one browser simulation on a computation device [0190 | 0194 – replay as a “virtual video” of the user interactions].

6> As to claim 6, Duckett discloses said indexing step includes said timing of said sub actions [0068 – timing of operation | 0070, 0227].

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7> Claims 1-4 are rejected under 35 U.S.C. §103(a) as being unpatentable over Duckett.

8> As to claim 1, Duckett discloses a method for tracking and presenting information regarding the behavior of a plurality of users on a series of web pages, include the acts of:

prompting a content user for statistical information when said content user chooses a desired link and storing said information on an electronic database [0028, 0109 – the an operator (or manager) defining events to be monitored | 0114, 0155, 0177, 0178 - where a system manager modifies the configuration message to determine the statistical information that is collected from the user. The choosing of a desired link and storing said information is implied by the fact that the manager defines what and how information is collected];

returning to a first content screen including links to a plurality of content screens after said content user has successfully entered information [0135, 0136];

recording said users' choices of links from first content screen as long as said users' choices are recordable [0022, 0024, 0126]; and

replaying said recording of at least one of said users' choices in the perspective of said user in a browser simulator [0156, 0194 – replay as a “virtual video” of the user interactions].

Duckett does not expressly disclose displaying an initial content menu screen. However, such a screen can be reasonable inferred from Duckett's teachings. Duckett discloses a configuration message that allows a manager to input statistical information to be recorded when a user interacts with a web page [0109]. As an example of this functionality, Duckett further discloses that a manager may specify whether details of specific keystrokes are retrieved within a specific frame of a web page [0133]. So for a web page related to credit card details, a content user can specify collecting keystrokes but not the keys pressed themselves [0133].

This teaching reasonably implies a content screen by which the content user can make the choices as to what is or is not being monitored on a given page. So while Duckett does not expressly disclose an initial content menu screen, such a screen is implied by Duckett's teachings that a manager can specify what is being monitored [0155 - systems manager in control of the instructions being issued by the central server].

9> As to claim 2, Duckett discloses the act of recording the time said user takes between each link [Figure 6 - use of event time stamps].

10> As to claim 3, Duckett discloses said replaying step includes replaying a plurality of users' [0157].

11> As to claim 4, Duckett discloses said replaying steps includes selecting a criteria from said statistical information entered by said user [0183-0186 - selecting a filter].

12> Claim 7 is rejected under 35 U.S.C. §103(a) as being unpatentable over Duckett, in view of Hentzel et al, U.S. Patent No. 6,877,007 [“Hentzel”].

13> As to claim 7, Duckett discloses a system for studying the behavior of visitors to an Internet site including:

an indexing system for identifying at least one visitor [0068 – monitoring user identification such as log-on name, IP address];

an event initiation module for triggering the recording of the browser behavior of said at least one visitor [0072 – data capture module | 0099];

data storage coupled with said Internet site [Figure 5 «item 9»];

a behavior organization module coupled with said data storage, capable of retrieving selected recordings from said at least one recording and compiling data representative of at least one visitor's browser behavior, wherein said behavior organization module uses at least one criteria to select [Figure 5 «item 10» | 0182-0186 – the filter rules used to reduce the volume and present the data stored in the data log in a more usable fashion by filtering the data log to only display certain events]; and

a browser simulator capable of taking data from said behavior organization module and presenting an accurate simulation of said compiled data [0156 : replaying recorded user actions | 0194 – replay as a “virtual video” of the user interactions].

Duckett does not expressly disclose an event termination module for terminating the recording of said browser behavior. However a module that terminates the recording of



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browser behavior was well known in the art at the time of Applicant's invention. Hentzel is directed a system for tracking a user's interaction with web pages [abstract]. Hentzel discloses a termination module that terminates the recording of a browser's behavior [column 13 «lines 3-15»]. It would have been obvious to one of ordinary skill in the art to have modified Duckett's tracking system to include a termination module as taught by Hentzel. The use of a termination module would improve Duckett as it would provide a signal to Duckett's tracking system to terminate the recording of the browser behavior.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following cited art are all related to the tracking and monitoring of browser behavior:

Bryant, U.S. Patent No. 6,286,046 – Figure 2;

Catchpole et al, U.S. Patent Publication No. 2002|0065912 - abstract;

Weinberg et al, U.S. Patent No. 6,587,969 - abstract;

Cesario, U.S. Patent Publication No. 2004|0054715 – 0006;

Benedikt et al, U.S. Patent Publication No. 2004|0059809 – 0007;

Weinberg et al, U.S. Patent No. 6,810,494;

Boss et al, U.S. Patent No. 6,813,248;

Kolb et al, U.S. Patent No. 6,978,218;

Smith et al, U.S. Patent No. 7,043,546;

Safstrom et al, U.S. Patent No. 7,047,296;

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Kehoe et al, U.S. Patent No. 7.072.935;

von Klopp et al, U.S. Patent No. 7.099.939;

Rojewski et al, U.S. Patent No. 7.139.978;

Straut et al, U.S. Patent No. 7.219.138;

Miller et al, U.S. Patent No. 7.231.606;

Allan, U.S. Patent No. 7.269.633;

Paulin, U.S. Patent No. 7.363.368.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOHM CHANKONG whose telephone number is (571)272-3942. The examiner can normally be reached on Monday-Friday [8:30 AM to 4:30 PM].

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bunjob Jaroenchonwanit can be reached on 571.272.3913. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dohm Chankong/  
Examiner, Art Unit 2152